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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,814	10/01/2003	Ichiro Kamimura	67336-014	8795

7590 06/13/2006

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EXAMINER

GRAVINI, STEPHEN MICHAEL

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 06/13/2006

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/674,814
Filing Date: October 01, 2003
Appellants: KAMIMURA ET AL.

MAILED

JUN 1 3 2006

Group 3700

Arthur J. Steiner
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 8, 2006 appealing from the Office action mailed September 20, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner. Examiner withdraws the anticipatory rejection of claim 1 and obviousness rejection of claims 2-3 under primary reference Goldberg (US 4,603,489). Although that reference is considered to

anticipate/obviate the claimed invention, it is not the choice of prior art under MPEP 706.02.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,361,511 Brown 11-1994

EP 1 081 383 European Patent Application of Ebara et al. published 3/01

(9) Grounds of Rejection

The following grounds of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

As a preliminary matter, examiner has reversed the anticipatory disclosed elements finally rejected gas cooler **62** to gas cooler **66** and condenser **66** to condenser **62**. This reversal is not considered a new rejection but merely clarification of claimed heat exchange elements as discussed in the prior art. The element reversal is based on fluid medium inside and outside each heat exchange element. In the current rejection below, claimed gas cooler is anticipated by disclosed condensing air flow around cold evaporator coils instead of refrigerant gas fluid flow inside the coils. Also claimed evaporator is anticipated by disclosed condenser section where air outside the coils is heated thereby cooling fluid within the coils. Although the prior art using the same language of the claimed invention, the functions are patentably anticipatory because the heat exchange components are viewed from a different perspective (i.e. fluid inside/outside as claimed compared to fluid outside/inside as disclosed or the

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claimed gas cooler is disclosed as a condenser and the claimed evaporator is disclosed as a another condenser, wherein the heat exchanged claimed is anticipated by the heat exchange disclosed).

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Brown (US 5,361,511). Brown is considered to disclose the claimed invention comprising:

a refrigerant circuit constituted by sequentially installing and connecting a compressor **60**, a gas cooler **66** (wherein the disclosed exhaust air condensation on cold evaporator coils collected on the bottom of a drying compartment at column 3 lines 39-43 is considered to anticipate the claimed gas cooler because to those skilled in the art air condensation on evaporator coils is a device that converts a gaseous fluid into a liquid form by cooling), a pressure reducing device **64** (wherein the disclosed expansion valve is considered to anticipate the claimed pressure reducing device because to those skilled in the art an expansion valve is a device that restricts high pressure flow on one side of the device such that pressure is reduced on the other side of the device when the flow is expanded), and an evaporator **62** (wherein the disclosed condenser section is considered to anticipate the claimed evaporator because based on Brown column 3 line 16 through line 63, warm air contacts condenser coils **62** causing heat exchange as claimed) in an annular shape **30** (wherein the disclosed double wall housing is considered to anticipate the claimed annular shape because to those skilled in the art a double wall housing allows one wall to enclose another wall such that the wall within a wall forms an annular shape); and

blowing means 50', 46, 50", 42, 52", 48, 52' for circulating air the drying chamber to exchange heat with the gas cooler and the evaporator wherein the blowing means is positioned in an air circulation path between the gas cooler and evaporator (please see column 3 lines 5-15 for discussion of the blowing means position). Blowing means is construed as a means for blowing air for circulation by means of a fan or blower which is consistent with appellants' specification discussion in paragraph [0006], [0060], and [0085] of the present application publication, US 2004/0107595. The blowing means claimed position is given its broadest reasonable interpretation in light of the specification and can be considered new matter since the original written specification is silent on the blowing means position between the gas cooler and evaporator. For example, in paragraph [0017] of the present application publication the blowing means is between the inlet and outlet of the air circulation path, but no mention is discussed regarding the position between the cooler and evaporator. In another example, paragraph [0006] of the publication states that the blowing means is for circulating air in a drying chamber to exchange heat with a gas cooler and evaporator, but is silent with respect to the claimed position. A final example shows that paragraph [0085] recites a sequential installation but not a blowing means between a gas cooler and evaporator. Since the new matter regarding blower position introduced in the amended claimed invention can be broadly and reasonably construed to be in an air circulation path to exchange heat with a cooler and evaporator in sequential installation, as disclosed by primary reference Brown. Brown is also considered to disclose the claimed rotary drum at column 2 line 44 wherein a tumble-type clothes dryer anticipates

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a rotary drum because to those skilled in the art tumble type clothes dryers use rotary drums.

Claim Rejections - 35 USC § 103

Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Ebara (EP 1 081 383). Brown is considered to disclose the claimed invention, as discussed in the anticipatory rejection above, except for the claimed CO2 refrigerant and flexible duct member for vibration absorption suspension. Ebara, another evaporation, blower, and cooler device, is considered to disclose the claimed CO2 refrigerant and the flexible duct member for vibration absorption suspension at column 1 line 9 and paragraph 4 respectively. To those skilled in the art, the reason a duct member is flexible is because it allows vibration absorption suspension. It would have been obvious to one skilled in the art to combine the teachings of primary reference Brown with the claimed CO2 refrigerant and the flexible duct member for vibration absorption suspension found in the secondary reference Ebara for the purpose of allowing an environmentally safe refrigerant for domestic or commercial use and allowing ductile gas flow conduits adaptable for domestic or commercial use respectively.

(10) Response to Argument

anticipation

Appellants raise concern that the rejection did not address each and every feature of the claimed invention. The rejection has been fully discussed above to address Appellants' concern. Since the claimed blowing means position (i.e. between)

has no basis in the written specification it may be treated as new matter. Appellants' figure 1 shows the blowing means "under" the gas cooler and evaporator rather than "between," as claimed. Under current Office practice, the claimed blowing means position is broadly and reasonably construed from the specification to be in a sequential installation such that it is between an inlet and outlet air circulation path for circulating air in a drying chamber to exchange heat with a gas cooler and evaporator. Claim ambiguity is not considered cured by appellants' arguments. Brown is considered to anticipate this claimed blowing means position, as discussed in the rejection above. Appellants asserted structural difference is not considered to overcome the anticipatory rejection.

Also, appellants acknowledge figure 2 of Brown shows two blowing means. It can be further seen from that figure, arrows designate an air flow path such that the claimed blowing means, which includes each reference character in the rejection above, with arrows in prior art reference Brown, to show the flow path. Using appellants interpretation of blowing means **48** or **46**, it can be seen that those elements are positioned in an air circulation path between the gas cooler **66** and evaporator **62** as claimed. Furthermore using a reasonably broad claim interpretation based in appellants' specification, blowing means may include any combination of inner and outer walls, drying and heating compartments, cylindrical air inlet and outlet ducts, fans, and ports. The claimed invention is considered to be patentably and structurally anticipated by Brown because the claims are given their reasonably broadest construction, under current Office practice.

Addressing appellants' assertion of ignoring specific claim limitations, examination is based on current Office practice, as discussed above. The claim limitation "blowing means is positioned in an air circulation path between the gas cooler and evaporator" is construed from the written specification discussion of each element. Since blowing means is reasonably broad, that element is construed from appellants' written specification. Each element was not given a narrower meaning than claimed or specified. It is considered that each claim limitation was addressed.

Rejections under 35 USC 112 are based on a strong presumption that an adequate written description of the claimed invention is present in the specification as filed. With respect to newly amended claims, appellants should show support in the original disclosure under MPEP 2163. A 35 USC 112 first paragraph rejection was not made because it might be improper under MPEP 2163.01. Since appellants argue the point of patentability is the blowing means position (i.e. between), that amended feature was briefly discussed in response filed September 14, 2004, to the first Office action. However appellants now introduce paragraph [0018] of the published specification as support for the criticality of the blowing means position. That paragraph does not discuss the criticality of the blowing means position, but merely refers to figure 1. Absent a clear written description of the blowing means position (i.e. between), examiner considered the blowing means position to be under the evaporator and gas cooler rather than between those elements as claimed. Appellants' paragraph [0016] discusses a hollow circulation path between a drying chamber and a machine chamber. Paragraph [0017] discusses a blower equivalent to blowing means installed between an

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inlet and outlet of an air circulation path. Neither of those paragraphs discuss a blowing means between a gas cooler and evaporator as claimed. Although appellants assert the blowing means position is not new matter, the originally filed application merely shows the blowing means position in the same manner as disclosed in the prior art and "under" in appellants' figure 1, rather than "between" as claimed. It is not considered that the blowing means position claim limitation was ignored, but rather treated in light of the originally filed application when viewed under the prior art.

The rejection is considered proper and therefore maintained.

obviousness

Appellants assert that because Brown does not anticipate the claimed invention, then an obviousness rejection can not be made using that primary reference. However, the anticipatory rejection is considered proper and therefore the obviousness rejection is also considered proper and therefore maintained.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Stephen Gravini



Conferees:

SPE Ehud Gartenberg (initial) EL

Kenneth Rinehart (initial) KR